

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

CHAZ PINKSTON

PLAINTIFF

V.

NO. 4:17-CV-39-DMB-DAS

**MISSISSIPPI DEPARTMENT OF
CORRECTIONS, et al.**

DEFENDANTS

ORDER

On or about June 4, 2019, Chaz Pinkston filed a motion seeking contempt against the warden of Wilkinson County Correctional Facility for failing to produce him for his May 23, 2019, evidentiary hearing, as ordered by the Court. Doc. #221. United States Magistrate Judge David A. Sanders denied Pinkston's motion for contempt, concluding that Pinkston's arguments should be advanced through objections to the June 6, 2019, report and recommendation, which recommends that Pinkston's case be dismissed based on his failure to attend the evidentiary hearing. Doc. #223.

"The prevailing view is that a magistrate lacks the power to adjudicate contempt proceedings." *Deutsch v. Annis Enters., Inc.*, 882 F.3d 169, 174 n.3 (5th Cir. 2018). Instead, "a magistrate may only certify to the district court (or deny certification thereof) facts possibly constituting contempt." *Id.* Because the magistrate judge did neither here, the disposition of Pinkston's motion for contempt cannot stand. Accordingly, the denial of the motion for contempt [223] is **SET ASIDE**. An evidentiary hearing on the motion for contempt, Doc. #221, the report and recommendation, Doc. #222, and the objections to the report and recommendation, Doc. #230, will be set by separate notice.

SO ORDERED, this 21st day of May, 2020.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE